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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,756	07/17/2003	Marco Constantino Waterman	30394-1097	5611
5179	7590	01/12/2005	EXAMINER	
PEACOCK MYERS AND ADAMS P C P O BOX 26927 ALBUQUERQUE, NM 871256927			MORRISON, NASCHICA SANDERS	
		ART UNIT	PAPER NUMBER	
		3632		

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/613,756	WATERMAN, MARCO CONSTANTINO	
	<b>Examiner</b>	<b>Art Unit</b>	
	Naschica S Morrison	3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
 THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 02 November 2004.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-8 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 17 July 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

This is the second Office Action for serial number 10/613,756, Device for hanging up an object, filed on July 17, 2003. Claims 1-8 are pending.

### ***Claim Objections***

Claim 1 is objected to because of the following informalities: on line 4, "is at" should be --has at--. Appropriate correction is required.

Claim 4 is objected to because of the following informalities: on line 2, "clamps" should be --is adapted to clamp--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 4 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 4 recites the device comprising a spring element and appears to read only on the embodiment of Figure 6. However the elements of claim 1 (see lines 1, 2, 5 and 6 especially) do not read on the embodiment of figure 6. Appropriate clarification/correction is required.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 2,493,503 to Renne in view of U.S. Patent 4,563,796 to Kettlestrings. Regarding claims 1 and 3-8, Renne discloses a device (Fig. 4) comprising: two at least partially overlapping and substantially parallel, flat elements (18, 14) formed of a resilient material which imparts a spring force, the elements being movable with respect to each other; wherein the first element (18) extends upwardly and the end of the first element is positioned a short distance from a top rim (16) of the device; wherein the two elements are connected by a third element (12) provided at a side of the first element (18) that faces away from the second element (14); wherein the first element is pivotably and resiliently attached to the third element along a bottom rim and the second element is pivotably and resiliently attached along the top rim to the third element and extends downwardly; wherein the second element (14) is bent outwardly at a free end; and wherein a surface (at 12 generally) of the third element facing away from the first and second elements is capable of being used as a fastening surface. Renne does not teach the second element (18) including a thickening/spring element for clamping an object hung between the first and second elements. Kettlestrings teaches a device (Fig. 2) comprising a first element (28) and a second element (22) including a thickening/spring element (32). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the second element of

Renne to include a thickening/spring element because one would have been motivated to provide a means for gripping thin objects located between the first and second elements as taught by Kettlestrings (col. 2, lines 59 ff.). Regarding claim 2, Renne does not teach the device being formed of plastic. Kettlestrings further teaches the device being formed of resilient plastics material (col. 2, lines 38-42). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the device of Renne to be formed of plastic as taught by Kettlestrings because one would have been motivated to provide a device that is lightweight and less expensive to manufacture.

### ***Response to Arguments***

Applicant's arguments filed 11/2/04 have been fully considered but they are not persuasive.

Regarding applicant's argument that "Kettlestrings does not teach parallel elements..." and "combining Kettlestrings and Renne would not lead to the present invention", examiner respectfully disagrees since the rejection set forth above relies upon Renne to teach parallel elements and does not set forth a modification to the structure of Kettlestrings.

In response to applicant's argument that Renne does not require a "lip" and that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or

motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation is found in the references themselves as stated in the rejections set forth above.

In response to applicant's argument that the "lip" of Kettlestrings teaches away from the outwardly bent free end of the present invention, examiner respectfully disagrees as the inclusion of a thickening on the device of Renne would not conflict with the outwardly bent free end of Renne.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 3632

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Naschica S. Morrison, whose telephone number is (703) 305-0228. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 703-308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this Application should be directed to the Technology Center receptionist at (703) 306-1113.

*nas*  
Naschica S. Morrison  
Patent Examiner  
Art Unit 3632  
1/3/05

*AK*  
ANITA KING  
PRIMARY EXAMINER